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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,287	08/01/2003	Jason Brian Fascinato	133822	5088

31838 7590 04/18/2005

HASSE GUTTAG & NESBITT LLC
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MASON, OH 45040

EXAMINER

WILSON, KATINA M

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ETC

Office Action Summary

Application No.

10/632,287

Applicant(s)

FASCINATO

Examiner

Katina M Wilson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/17/05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 15-20, 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 01 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: *final rejection*.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 17, 2005 have been fully considered but they are not persuasive. Applicant's argument regarding impressionable material such as a heated wax and a fixed static impression are narrower than the claims. The Applicant may believe the term impressionable is limited to soft material, however, the definition impressionable is *capable of being easily impressed*. Patent 6090027, Method for Parcel Marking and Three Dimensional Label thereof, teaches "... generally to indicate that the cut to be made to an impressionable substrate could be manufactured as a single or multiple slit 77, V-cut section 83, J-cut section 82, slot, die-cut section 81, perforation, micro-perforation, laser cut, steel rule die, die cut space, mark to make a cut, ink printed marking on a parcel during manufacture for a slit ..." implying cutting a material to a desired shape and maintaining the shape is obvious to a skilled artisan.
2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 102

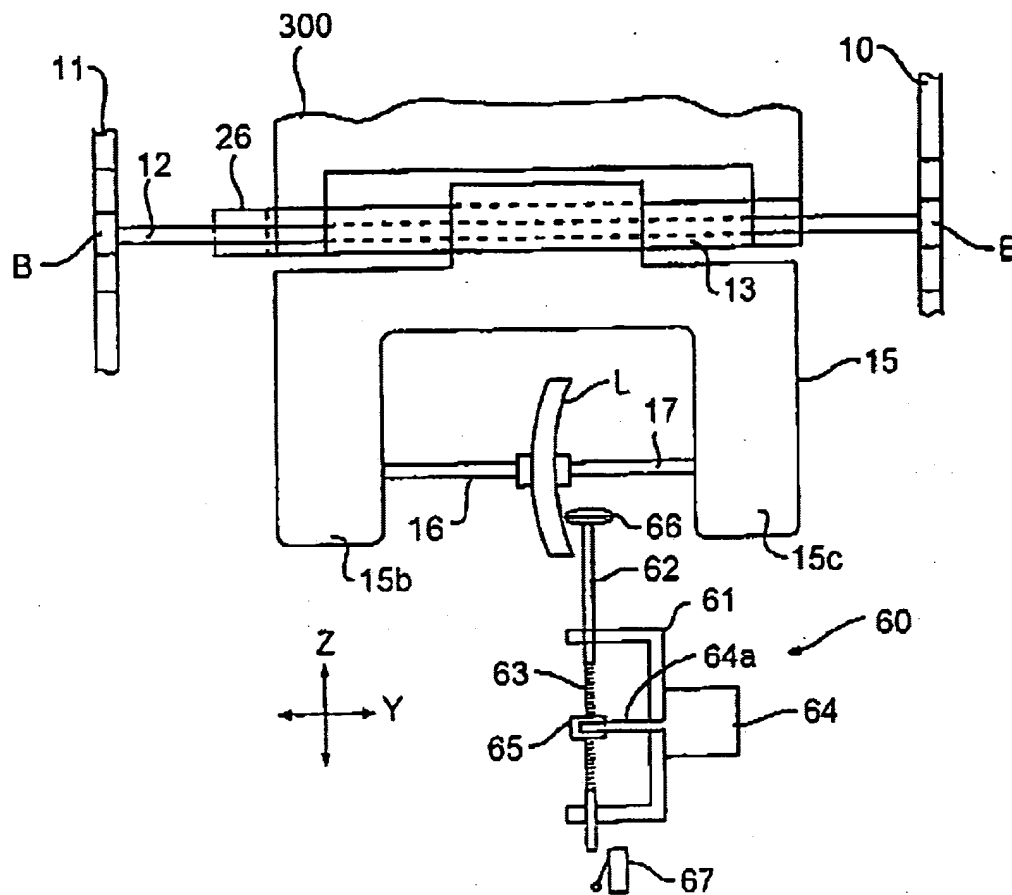
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 7, 15-20, and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitao et al 6019669.

As to claims 1 and 18, Kitao teaches a lens shape measuring apparatus comprising: a fixture (rotating shafts 16 and 17) to hold an impressionable material (lens L) in fixed position against a surface feature (feeler 66) for the period needed for the impressionable material to conform to the surface feature (feeler 66) and register the shape of the surface feature (feeler 66); said fixture (rotating shafts 16 and 17) removable such that the profile created in the impressionable material (lens L) remains substantially unchanged by removal; and said fixture (rotating shafts 16 and 17) mountable in a profiling device (lens shape measuring apparatus) repeatably from measurement to measurement (col. 4-9, all figures).



As to claims 2, 15 and 22, Kitao et al continues to teach: a fixture (rotating shafts 16 and 17) to hold an impressionable material (lens L) in fixed position against an edge (feeler 66 is a C-shape) for the period needed for the impressionable material to conform to the edge and register the shape of the edge (feeler 66 is a C-shape); said fixture having a positioning element (stepping motor 31/ carriage 15) and a measuring element (lens edge thickness measuring unit 60), said measuring element removably fitted to said positioning element in a manner to hold said measuring element in alignment with said positioning element (col. 4-12, figures 1, 3, 7, 8a-d, 9, 10). The stepping motor 31 is actuated by means of the calculation/control circuit 100 to move the carriage 15.

As seen in figure 7, 8b-d, 9-10, claims 3, 16, the measuring element (lens edge thickness measuring unit 60) has a free axis (Z-X) of movement such that the impressionable material may be moved toward or away from the edge being profiled.

As to claims 4, 17, 19, 23, Kitao et al teaches an apparatus further comprising an adjustable stepped gage block (the stepping motor 31 is actuated by means of the calculation/control circuit 100 to move the carriage 15 in position) to regulate the position of the impressionable material (lens L) in relation to the edge being measured (figure 5 and 7).

As to claims 5, 7, 20, 24, wherein said fixture (rotating shafts 16 and 17) contacts at least one datum of the part being measured (lens being measured) to provide a reference location (col. 9-12; figure 7).

Allowable Subject Matter

5. Claims 6, 8-14, 21, 25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katina M Wilson whose telephone number is 571-272-2209. The examiner can normally be reached on Mon-Fri 6:15am-4:00pm, off on Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E Williams can be reached on 571-272-2209. The fax phone

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number for the organization where this application or proceeding is assigned is (703)

872-9306.

KW

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